

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BEFORE THE RHODE ISLAND STATE LABOR RELATIONS BOARD

IN THE MATTER OF

CITY OF PROVIDENCE

-AND-

CASE NO: EE- 1445

INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, LOCAL 799

DECISION AND ORDER OF DISMISSAL

TRAVEL OF THE CASE

The above entitled matter came to be heard on a Petition by Employees for Investigation and Certification of Representatives” (hereinafter “Petition”) filed by the International Association of Firefighters (hereinafter “Union”) on June 13, 2003 wherein the Petitioner sought to represent the Assistant Chiefs, Deputy Assistant Chiefs, Battalion Chiefs, Fire Marshall and Deputy Fire Marshall of the Providence Fire Department.

An informal hearing on the Petition was conducted by the Board’s Investigative Agent on July 22, 2003 which was attended by representatives of both the Petitioner and the Respondent-Employer. The Employer objected to the inclusions of these positions in the bargaining unit, on the grounds that these employees were supervisory and/or managerial employees and ineligible for collective bargaining. The Board’s Agent conducted an investigation and on January 21, 2004, and issued a nine (9) page investigative report. On February 20, 2004, the Employer filed a response to the Investigative report and a “partial objection” thereto. The Union did not file any written response.

Formal hearings on the petition were commenced on October 7, 2004, pursuant to R. G.L. 28-7-9(5). Upon conclusion of the hearings, the parties submitted briefs by the beginning of June 2005 and the matter was considered by the Board at its June 14, 2005 meeting.

DISCUSSION

At its meeting on June 14, 2005, Member Joseph Mulvey made a motion, seconded by Member John Capobianco to accrete the petitioned for positions into the Bargaining unit. Members Lanni, Mulvey and Capobianco voted in favor of the motion and Members Goldstein, Jordan and Dolan voted against the motion. Since the motion failed to gain a majority support, the motion was deadlocked at 3-3.¹ Therefore, the Board has no other choice but to dismiss the petition

FINDINGS OF FACT

- 1) The Petitioner Union is a labor organization, which exists and is constituted, for the purpose, in whole or in part, of collective bargaining and of dealing with employees in grievances or other mutual aid and protection, and as such, is a "Labor Organization" within the meaning of the Rhode Island State Labor Relations Act.
- 2) The Respondent is an "Employer" within the meaning of the Rhode Island State Labor Relations Act.
- 3) On June 13, 2003, the Union filed a petition seeking to accrete the positions of Assistant Chiefs, Deputy Assistant Chiefs, Battalion Chiefs, Fire Marshall and Deputy Fire Marshall into the bargaining unit represented by Local 799.
- 4) The Board's Investigative Agent conducted both an informal hearing and an investigation and issued a written report to the parties and the Board.
- 5) Formal hearings were conducted by the Board.
- 6) The Board was deadlocked when voting on the substantive merits of the petition and the Board has no statutory mechanism for breaking deadlocks.

1. This is the second time in recent memory that a case has been deadlocked and has resulted in dismissal. See Case No. ULP 5673, in the Matter of Coventry Fire District and IAFF Local 3240.

CONCLUSIONS OF LAW

- 1) The Board has no alternative but to dismiss the within Petition on the basis that it has no mechanism to break a deadlocked vote.

ORDER

- 1) The Petition is hereby dismissed.

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NOTICE OF RIGHT TO APPEAL AGENCY DECISION
PURSUANT TO R.I.G.L. 42-35-12

Please take note that parties aggrieved by the within decision of the RI State Labor Relations Board, in the matter of EE- 1445 dated 8-10-05 may appeal the same to the Rhode Island Superior Court by filing a complaint within thirty (30) days after 8-10-05

Reference is hereby made to the appellate procedures set forth in R.I.G.L. 28-7-31

Dated: AUGUST 10, 2005

By: Robyn H. Golden
Robyn H. Golden, Acting Administrator

RHODE ISLAND STATE LABOR RELATIONS BOARD

Walter J. Lanni

Walter J. Lanni, Chairman

Joseph V. Mulvey

Joseph V. Mulvey, Member

Ellen L. Jordan

Ellen L. Jordan, Member

John R. Capobianco

John R. Capobianco, Member

Elizabeth S. Dolan

Elizabeth S. Dolan, Member

Gerald S. Goldstein

Gerald S. Goldstein, Member

Entered as an Order of the
Rhode Island State Labor Relations Board

Dated: August 10, 2005

By: *Robyn H. Golden*
Robyn H. Golden, Acting Administrator

EE-1445

NOTE: Frank Montanaro, Member, recused himself from participation in this matter.